

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Greg Finch	Team: Squad #14	CCRB Case #: 201700336	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 01/09/2017 1:45 AM	Location of Incident: § 87(2)(b)	Precinct: 81	18 Mo. SOL 7/9/2018	EO SOL 7/9/2018	
Date/Time CV Reported Mon, 01/09/2017 1:18 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 01/13/2017 12:31 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Sharif Portee	10221	940591	081 PCT
2. SGT Taejin Lim	02659	928647	081 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Matthew Shore	06438	961286	081 PCT
2. POF Brenace John	04914	956773	081 PCT
3. POF Tahmeka Barnes	12099	941392	081 PCT
4. POM Edson Delva	00874	946911	081 PCT
5. POM Joseph Filippi	11107	960541	081 PCT
6. POM Jason Descul	19448	959593	081 PCT
7. POM Pearce Martinez	05461	955137	081 PCT
8. POM Paul Bistany	03215	939923	081 PCT
9. POM Angelo Digennaro	27678	954734	081 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Sharif Portee	Force: Police Officer Sharif Portee used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Sharif Portee	Force: Police Officer Sharif Portee used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Sharif Portee	Force: Police Officer Sharif Portee used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Sharif Portee	Force: Police Officer Sharif Portee used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Sharif Portee	Force: Police Officer Sharif Portee restricted § 87(2)(b)'s breathing.	§ 87(2)(b)
F.POM Sharif Portee	Discourtesy: Police Officer Sharif Portee spoke discourteously to § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
G.POM Sharif Portee	Off. Language: Police Officer Sharif Portee made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	
H.POM Sharif Portee	Abuse: Police Officer Sharif Portee refused to provide his name and shield number to § 87(2)(b)	
I.POM Sharif Portee	Abuse: Police Officer Sharif Portee refused to provide his name and shield number to § 87(2)(b)	
J.SGT Taejin Lim	Abuse: Sergeant Taejin Lim forcibly removed § 87(2)(b) to the hospital.	

Case Summary

On January 9, 2017, Lieutenant Tameka Goodlett of the 81st Precinct called the IAB Command Center to report § 87(2)(b)'s complaint that excessive force was used against her as she was being taken into custody. On January 13, 2017, the CCRB received the case.

At approximately 12:49 a.m. on January 9, 2017, PO Sharif Portee, PO Matthew Shore, Sgt. Taejin Lim, PO Jason Descul, PO Joseph Fillipi, PO Pearce Martinez, PO Angelo Digennaro, PO Paul Bistany, PO Edson Delva, PO Brenace John and PO Tahmeka Barnes, all of the 81st Precinct, arrived at § 87(2)(b) in Brooklyn in regards to a report of a dispute between § 87(2)(b) and her mother, § 87(2)(b). PO Portee handcuffed § 87(2)(b), twisted her arm behind her back (**Allegation A: Force**, § 87(2)(g)) and pushed his open palm against § 87(2)(b)'s face (**Allegation B: Force**, § 87(2)(g)). PO Portee allegedly threw § 87(2)(b) inside the ambulance (**Allegation C: Force**, § 87(2)(g)). PO Portee punched § 87(2)(b) in the face (**Allegation D: Force**, § 87(2)(g)). PO Portee allegedly restricted § 87(2)(b)'s breathing (**Allegation E: Force**, § 87(2)(g)). PO Portee called § 87(2)(b) a “stupid motherfucker” and a “stupid bitch” (**Allegation F: Discourtesy**, § 87(2)(g)). **Allegation G: Offensive Language**, § 87(2)(g). § 87(2)(b) and § 87(2)(b) asked PO Portee for his name and shield number, which he allegedly refused to provide (**Allegation H: Abuse of Authority**, § 87(2)(g)). **Allegation I: Abuse of Authority**, § 87(2)(g). § 87(2)(b) was removed to § 87(2)(b) Hospital (**Allegation J: Abuse of Authority**, § 87(2)(g), § 87(2)(a) 160.50).

§ 87(2)(b)

§ 87(2)(b)

There is no video evidence in this case.

Findings and Recommendations

Allegation A - Force: Police Officer Sharif Portee used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) was involved in a dispute with § 87(2)(b) inside their apartment at § 87(2)(b) in Brooklyn. All of the 81st Precinct officers listed above arrived and spoke with § 87(2)(b) and § 87(2)(b) in the building lobby.

§ 87(2)(b) said that after she argued with § 87(2)(b) in front of the officers, PO Portee grabbed § 87(2)(b)'s arms, pulled them behind her back, and handcuffed her (Board Review 05). As PO Portee did so, he twisted one of § 87(2)(b)'s arms. § 87(2)(b) twisted her wrists to loosen the handcuffs, and PO Portee told her to stop resisting. § 87(2)(b) acknowledged that she loudly argued with officers and refused to be taken into custody, but she denied attempting to punch § 87(2)(b).

§ 87(2)(b) said she spoke on the phone with her friend, § 87(2)(b) during the incident in the apartment prior to the officers' arrival (Board Review 06, Board Review 07). Both § 87(2)(b) and § 87(2)(b) called 911 and reported that § 87(2)(b) tried to punch § 87(2)(b) and § 87(2)(b). § 87(2)(b) said that § 87(2)(b) yelled and swung her fist at § 87(2)(b) but denied that she resisted as multiple officers handcuffed her.

EMTs § 87(2)(b) and § 87(2)(b) § 87(2)(b) arrived in an ambulance. They denied that any officer used excessive force against § 87(2)(b) (Board Review 08, Board Review 09). EMT § 87(2)(b) said that one of the officers ordered § 87(2)(b) to put her hands behind her back, and that

§ 87(2)(b) swung her fist at that officer before being handcuffed. EMT § 87(2)(b) said that § 87(2)(b) “may have” lunged at one of the officers before multiple officers handcuffed her.

PO Portee said that § 87(2)(b) “charged” at § 87(2)(b) in the building vestibule and that she either pushed or punched § 87(2)(b) while the officers were present (Board Review 10). As a result, PO Portee attempted to handcuff § 87(2)(b) but she twisted her torso and pulled her arms away from him. PO Portee applied pressure to § 87(2)(b)’s wrist by bending it forward toward her forearm, which he described as a compliance technique used to enable him to successfully handcuff her.

PO Shore said that § 87(2)(b) attempted to push or punch § 87(2)(b) (Board Review 11), but he did not recall who handcuffed § 87(2)(b) if she resisted being handcuffed, or if PO Portee twisted § 87(2)(b)’s arm.

Sgt. Lim did not observe § 87(2)(b) attempt to push or punch § 87(2)(b) but learned that it occurred after the incident (Board Review 12). Sgt. Lim said that § 87(2)(b) told him that § 87(2)(b) was a “crackhead” and that she wanted § 87(2)(b) hospitalized and removed from her house. Sgt. Lim did not recall whether PO Portee twisted § 87(2)(b)’s arm.

PO Martinez said that he considered § 87(2)(b) aggressive enough to necessitate her being handcuffed for everyone’s safety, and that she was “one of the craziest EDPs [he] had ever seen” (Board Review 13).

Medical records from § 87(2)(b)’s visit to § 87(2)(b) Medical Center on the date of the incident note that § 87(2)(b) sustained mild bilateral wrist swelling due to tight handcuffs and a contusion on an unspecified forearm (Board Review 32). Medical records from § 87(2)(b)’s visit to § 87(2)(b) the following day note that § 87(2)(b) sustained a left elbow strain, but that there was no evidence of fracture, dislocation, or acute abnormality. § 87(2)(b) was prescribed Ibuprofen for pain (Board Review 33).

NYPD members of service may use force when it is reasonable to place a person in custody or prevent them from escaping custody. NYPD Patrol Guide, Section 221-01 (Board Review 16).

§ 87(2)(b), § 87(2)(g)

Allegation B - Force: Police Officer Sharif Portee used physical force against § 87(2)(b)

§ 87(2)(b) said that PO Portee grabbed her rear-handcuffed arm and escorted her from the building lobby to an ambulance parked outside of the building. § 87(2)(b) did not resist walking, but told PO Portee that he “needed to humble himself.” As they approached the ambulance, PO Portee allegedly pushed his open palm against § 87(2)(b)’s face, akin to a ‘mush.’

§ 87(2)(b) and EMTs § 87(2)(b) and § 87(2)(b) denied that PO Portee pushed § 87(2)(b)’s face in the manner alleged.

All witness officers denied that PO Portee pushed § 87(2)(b)'s face in the manner alleged. All witness officers either denied or did not recall seeing § 87(2)(b) grab PO Portee's wrist. PO Shore and PO Martinez said that § 87(2)(b) kicked PO Martinez while descending the building stairs, but denied that she acted physically aggressive afterwards while approaching the ambulance. Sgt. Lim and PO Bistany said that they did not see nor learn that § 87(2)(b) kicked an officer during this part of the incident, but saw § 87(2)(b) twist her torso and brace her body while approaching the ambulance. PO Bistany said he saw § 87(2)(b) spit in PO Portee's face. PO Shore, PO Martinez, and Sgt. Lim said that they did not witness § 87(2)(b) spit in PO Portee's face, but later learned that this had occurred.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) said that § 87(2)(b) entered the ambulance voluntarily.

PO Portee said that when he ordered § 87(2)(b) to enter the ambulance, she twisted her torso away from him. PO Portee, two EMTs, and two officers lifted § 87(2)(b) into the ambulance, where she

Force may be used to take necessary action to protect life and the personal safety of all persons present, and any application of force must be reasonable under the circumstances. NYPD members of service shall not use any level of force on handcuffed or otherwise restrained subjects unless necessary to prevent injury, escape, or to overcome active physical resistance or assault. NYPD Patrol Guide, Section 221-01.

§ 87(2)(b), § 87(2)(g)

Allegation E - Force: Police Officer Sharif Portee restricted § 87(2)(b)'s breathing.

§ 87(2)(b) alleged that PO Portee grabbed the front collar of her hooded sweatshirt from behind and rotated her torso, so that she was repositioned from lying on her stomach to lying on her back on the ambulance floor. PO Portee allegedly stood over § 87(2)(b) with one foot planted on either side of her body pulling her collar taut against her neck, which allegedly restricted her breathing for approximately 30 seconds after she was flipped over.

§ 87(2)(b) said PO Portee grabbed § 87(2)(b) by the collar and lifted her onto the gurney. § 87(2)(b) EMT § 87(2)(b) and EMT § 87(2)(b) denied that PO Portee grabbed § 87(2)(b) by the collar and that PO Portee restricted her breathing.

PO Portee denied grabbing § 87(2)(b)'s collar, but acknowledged that he grabbed her by the "front-upper-portion" of her sweatshirt as she was face-down on the ambulance floor, and rotated her torso so that he could lift her onto the gurney. PO Portee held the front-upper-portion of § 87(2)(b)'s sweatshirt for no more than five seconds. § 87(2)(b) continued to grip PO Portee's forearm as he pushed against the ambulance floor to lift himself up. PO Portee lifted § 87(2)(b) onto the gurney along with PO Shore, PO Martinez, and two EMTs. § 87(2)(b) kicked her feet, spit at the officers and EMTs and repeatedly attempted to lift herself off of the gurney. In response, PO Portee pressed his hands against § 87(2)(b)'s chest for no more than 10 seconds so she could be strapped to the gurney. PO Portee acknowledged that § 87(2)(b) said she could not breathe as he pressed down on her chest. PO Portee denied that his actions could have restricted § 87(2)(b)'s breathing, and noted that § 87(2)(b) was speaking as she struggled to rise from the gurney. PO Portee did not observe any other officers make contact with § 87(2)(b)'s body in a manner that could have restricted her breathing, and no officer made contact with her neck, mouth or nose. After he exited the ambulance, PO Portee continued to hear § 87(2)(b) say that she could not breathe.

PO Shore, PO Martinez and PO Bistany all said they had a partial view during this aspect of the incident, and that none of them witnessed this encounter inside the ambulance. Sgt. Lim said that he stood by the side doors of the ambulance until § 87(2)(b) was restrained on the gurney and that his view of what occurred inside was unobstructed. Sgt. Lim said he observed § 87(2)(b) struggle to get up from the gurney and foam at the mouth as EMTs attempted to strap her to the gurney. He denied that PO Portee grabbed § 87(2)(b) by the collar and that PO Portee restricted § 87(2)(b)'s breathing. PO Shore, PO Martinez, PO Bistany, and Sgt. Lim all denied that § 87(2)(b) complained of being unable to breathe.

PO Portee acknowledged grabbing § 87(2)(b) by the top portion of her sweatshirt, the action that § 87(2)(b) said restricted her breathing, though PO Portee denied that this action could have restricted § 87(2)(b)'s breathing. PO Portee acknowledged that § 87(2)(b) said she could not breathe, but that she said so both when he pressed her chest against the ambulance floor before she was strapped to the gurney and after he exited the ambulance and was no longer making physical contact with her. No witness officer or EMT acknowledged hearing § 87(2)(b) say she could not breathe or witnessing PO Portee restrict § 87(2)(b)'s breathing.

§ 87(2)(b), § 87(2)(g)

Allegation F - Discourtesy: Police Officer Sharif Portee spoke discourteously to § 87(2)(b)

Allegation G - Offensive Language: Police Officer Sharif Portee made comments to § 87(2)(b) based on gender.

§ 87(2)(b) said that as PO Portee punched her, he called her a “stupid motherfucker” and “stupid bitch.” § 87(2)(b) said she heard PO Portee call § 87(2)(b) “stupid” and “bitch” and said § 87(2)(b) responded, “No, you a bitch and this is going to be your job.” Both EMTs and all witness officers denied that PO Portee made any of the alleged statements.

PO Portee said § 87(2)(b) told him “This is going to be your job.” PO Portee first acknowledged that it was “more than likely” that he used profanity. He then said he specifically told § 87(2)(b) “Fuck you,” and “You spit on my fucking face.” PO Portee did not recall exactly what else he said to § 87(2)(b) but said he used “the same profanity that she used against me...in other words, whatever she said to me, I basically said back.” He initially denied using the words “motherfucker” and “bitch,” but acknowledged that he may have done so despite his lack of recall.

NYPD members of service are required to be courteous and respectful in their interactions with the public. NYPD Patrol Guide, Section 203-09 (Board Review 26). NYPD members of service are prohibited from using discourteous or disrespectful remarks regarding another person’s gender. NYPD Patrol Guide, Section 203-10 (Board Review 27).

PO Portee acknowledged saying “fuck you” to § 87(2)(b) and said he repeated back offensive language she said to him, although he could not recall the exact language used. PO Portee specifically recalled § 87(2)(b) saying “This is going to be your job.” § 87(2)(b) said that her exact

words were, “No, you a bitch, and this is going to be your job.” § 87(2)(b), § 87(2)(g)

Allegation H - Abuse: PO Sharif Portee refused to provide his name and shield number to

§ 87(2)(b)

Allegation I – Abuse: PO Sharif Portee refused to provide his name and shield number to

§ 87(2)(b)

§ 87(2)(b) alleged that as she was restrained to the gurney, she asked PO Portee for his name and shield number, but he did not provide the requested information. PO Portee allegedly told § 87(2)(b) that the information would be on her arrest report, then allegedly reversed his shield so § 87(2)(b) could not read it. § 87(2)(b) provided PO Portee’s shield number, but not his name, to the investigation.

§ 87(2)(b) said that § 87(2)(b) asked for PO Portee’s name and shield number while inside the ambulance, and that PO Portee’s shield was visible prior to him entering the ambulance, but that it was no longer visible when he exited the ambulance. § 87(2)(b) asked PO Portee for his name and shield number, and he told her it would be on § 87(2)(b)’s arrest report, but allegedly did not provide the requested information to her.

PO Portee said that § 87(2)(b) asked for his name and shield number and that he provided it to her multiple times throughout the incident. Specifically, § 87(2)(b) asked PO Portee for his name immediately after he handcuffed her, after she spit at him, and at § 87(2)(b) Hospital. PO Portee provided his name each time, except immediately after § 87(2)(b) spit at him. PO Portee also provided his name to § 87(2)(b) when he first interacted with her. He said he additionally offered her his business card at the hospital, but she refused to take it. PO Portee denied that he reversed his shield at any time during the incident. He did not know if it was physically possible to reverse his shield while it remained attached to his shirt, and had never seen an officer do this. PO Portee said his shield remained visible on the outside of his jacket when he exited the ambulance and spoke with § 87(2)(b). PO Portee acknowledged that § 87(2)(b) asked him for his name and shield number, and he said he verbally provided the requested information to her.

EMT § 87(2)(b) said § 87(2)(b) asked PO Portee for his name and shield number while inside the ambulance, that he gave PO Portee a piece of paper on which to write it, and that he saw § 87(2)(b) with the paper at the hospital. EMT § 87(2)(b) denied that § 87(2)(b) asked PO Portee for his name or shield number in her presence. PO Martinez, Sgt. Lim and PO Bistany denied that PO Portee refused to provide his shield number to § 87(2)(b) and PO Shore did not recall whether or not PO Portee did so.

§ 87(2)(b), § 87(2)(g)

Allegation J - Abuse: Sgt. Taejin Lim forcibly removed § 87(2)(b) to the hospital.

§ 87(2)(b) said that on multiple prior occasions, she had been forcibly removed to the hospital by police and EMTs for aggressive behavior similar to that which she demonstrated on the date of the incident. § 87(2)(b) said that § 87(2)(b) had a history of mental illness and that she had been hospitalized on prior occasions for threatening to harm herself and § 87(2)(b). On the date of this incident, § 87(2)(b) was exhibiting aggressive behavior, including throwing objects and threatening to punch walls, which § 87(2)(b) believed would escalate, based on her past experience with § 87(2)(b). § 87(2)(b) concluded that § 87(2)(b) was having a “psychotic episode,” so she called 911 and requested that § 87(2)(b) be removed to the hospital.

§ 87(2)(b) said that while speaking with § 87(2)(b) on the phone, she overheard § 87(2)(b) and § 87(2)(b) arguing. § 87(2)(b) called 911 out of fear for § 87(2)(b)'s safety. § 87(2)(b)'s 911 call audio reveals that § 87(2)(b) reported that § 87(2)(b) was attacking § 87(2)(b) that § 87(2)(b) had a history of mental issues and violence, and that on a prior occasion, § 87(2)(b) attacked § 87(2)(b) and both women were hospitalized as a result.

EMTs § 87(2)(b) and § 87(2)(b) both said that § 87(2)(b) behaved in a manner that posed a threat of serious injury to others, including spitting at, kicking, and attempting to bite the officers and EMTs, and that it was necessary to sedate § 87(2)(b) in the ambulance in order to safely transport her to the hospital.

Sgt. Lim said he decided to remove § 87(2)(b) to the hospital, both because § 87(2)(b) specifically requested that he do so, and because the 911 call came over as an EDP. Sgt. Lim did not observe § 87(2)(b) spit at or attempt to strike any officer or civilian, but after the incident, an officer whose identity he could not recall, told him that § 87(2)(b) had spit at PO Portee. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

A person is considered to be emotionally disturbed, and therefore must be taken into protective custody, when she appears to be mentally ill or temporarily deranged and is conducting herself in a manner which a police officer reasonably believes is likely to result in serious injury to herself or others. NYPD Patrol Guide, Section 221-13 (Board Review 30).

The Patrol Guide is explicit in stating that an individual can be forcibly removed to the hospital as an EDP only if they are acting in a manner that is reasonably likely to result in serious injury to herself or others. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation.
- As of October 2, 2017, § 87(2)(b) has not filed a Notice of Claim with the NYC Comptroller's Office regarding this incident (Board Review 02).

• § 87(2)(b)

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (Board Review 03).
- This is § 87(2)(b)'s first CCRB complaint (Board Review 34).
- PO Portee is an 11-year-member-of-service. He has been the subject of two other CCRB complaints comprised of seven allegations, none of which were substantiated. Three allegations were for physical force, and they were all either unsubstantiated or exonerated. § 87(2)(g).
- Sgt. Lim is a 16-year-member-of-service. He has been the subject of three other CCRB complaints comprised of three allegations, none of which were substantiated or § 87(2)(g).

Squad: 14

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date